

The City Council met in regular session at the hour of 8:38 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Brian Calhoun	Councilmember
	Brad Castillo	Acting Council President
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Tom Boyajian	Council President

Dan Hobbs, City Manager
Andy Souza, Assistant City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Mayor Autry gave the invocation and Councilmember Dages led the Pledge of Allegiance to the Flag.

PROCLAMATION OF ALCOHOL AND DRUG ADDICTION RECOVERY MONTH

PROCLAMATION OF BACK TO SCHOOL SAFETY DAY - COUNCILMEMBER PEREA

RESOLUTION OF COMMENDATION TO POLICE DEPARTMENT TRUANCY UNIT - MAYOR AUTRY

PRESENTATION OF FRESNO AREA EXPRESS DRIVER APPRECIATION AWARDS - PRESIDENT BOYAJIAN

RECOGNITION OF INTERIM FIRE CHIEF JOEL ARANAZ

The above proclamations and resolutions were read and presented.

APPROVE MINUTES OF AUGUST 19, 2003

Laid over one week.

COUNCILMEMBER REPORTS AND COMMENTS:

COMMENDATION TO PUBLIC WORKS STAFF FOR CROSSWALK SAFETY PROGRAM - PRESIDENT BOYAJIAN

Commendation made.

COMMENDATION TO PUBLIC WORKS AND PARKS & RECREATION STAFF FOR TREE TRIMMING WORK - ACTING PRESIDENT CASTILLO

Commendation made.

APPROVE AGENDA:

(3-D) DIRECT EXECUTION OF CONTRACT WITH GLOBAL SPECTRUM RELATING TO CONVENTION CENTER OPERATIONS BE DELAYED PENDING RESOLUTION OF FLORIDA LITIGATION ISSUES BETWEEN GLOBAL SPECTRUM AND SMG - COUNCILMEMBER CALHOUN

1. SET HEARING TO SET ASIDE THE AWARD OF CONTRACT WITH GLOBAL RELATING TO CONVENTION CENTER OPERATIONS

(3-C) STATUS REPORT ON GLOBAL CONTRACT NEGOTIATIONS FROM COUNCIL COMMITTEE - ACTING PRESIDENT CASTILLO

Councilmember Calhoun requested his item, **3-D**, be scheduled at a time certain in the morning for the benefit of representatives from Global and SMG who were present, whereupon it was determined to hear both items **3-C** and **3-D** at approximately 11:00 or 11:30 a.m.

(2:30 P.M.) WORKSHOP RELATING TO ISSUING REQUEST FOR PROPOSALS (RFP) ON PARA TRANSIT CONTRACT - COUNCILMEMBER PEREA

Rescheduled for September 16, 2003, at the direction of Councilmember Perea.

(10:30 A.M.) HEARING ON R-03-29 FILED BY MAURICE AND VIOLET MESPLE, PROPERTY LOCATED AT 1370 E. ALLUVIAL (DISTRICT 6)

Councilmember Duncan advised he owned property in the area and would be recusing himself from the proceedings. So noted.

On motion of Councilmember Dages, seconded by Councilmember Perea, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

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ADOPT CONSENT CALENDAR:

Gloria Torrez, Fresno, CA, spoke in opposition to Items **1-C**, **1-F**, **1-K** and **1-S** stating FAX dollars needed to stay with FAX, CEQA and Federal funds were involved, CNG was more expensive and clean air diesel was needed, and bus riders should be able to ride free, and requested the items be vetoed.

(1-A) RESOLUTION NO. 2003-266 - 411th AMENDMENT TO MFS RES. 80-420 INCREASING GREEN FEES AT RIVERSIDE AND PALMLAKES MUNICIPAL GOLF COURSES IN ACCORDANCE WITH THE EXISTING LEASE/MANAGEMENT AGREEMENTS, WITH CHANGE TO BECOME EFFECTIVE 9/1/03

On motion of Councilmember Dages, seconded by Acting President Castillo, duly carried, RESOLVED, the above entitled Resolution No. 2003-266 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	Castillo
Absent	:	None

(1-B) APPROVE THE PURCHASE OF A STREET EASEMENT VALUED AT \$12,700 FROM PROPERTY OWNED BY TERRY C. AND CATHERINE TINSLEY TUELL AT THE SOUTHWEST CORNER OF HERNDON AVENUE AND VAN NESS BOULEVARD; AND AUTHORIZE THE ASSISTANT PUBLIC WORKS DIRECTOR TO ACCEPT THE DEED OF EASEMENT AND EXECUTE ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

(1-F) APPROVE CONTRACT CHANGE ORDER NO. 11 IN THE AMOUNT OF \$247,690 FOR ADJUSTMENTS TO VARIOUS ORIGINAL BID ITEM QUANTITIES FOR PHASE II WORK OF THE CITY'S INTELLIGENT TRANSPORTATION SYSTEM (ITS) (TRAFFIC SIGNAL SYNCHRONIZATION SYSTEM)

(1-G) RESOLUTION NO. 2003-267 - 18TH AMENDMENT AAR 2003-209 APPROPRIATING \$52,000 FOR THE INSTALLATION OF FLASHING BEACONS AT THE PEDESTRIAN CROSSING ON MCKINLEY AND SAN PABLO AVENUES

President Boyajian and Councilmember Calhoun spoke in support and commended staff on the issue.

(1-H) RESOLUTION NO. 2003-268 - 3RD AMENDMENT TO SALARY RES. 2003-213 RETITLING THE CLASS OF ANIMAL CURATOR IN UNIT 3, NON-SUPERVISORY WHITE COLLAR TO GENERAL CURATOR, AND MODIFYING UNIT 13, MANAGEMENT NON-CONFIDENTIAL TO INCLUDE THE CLASS OF GENERAL CURATOR

(1-I) AWARD A CONTRACT TO TRON CONSTRUCTION OF FRESNO FOR THE BASE BID IN THE AMOUNT OF \$1,785,000 FOR FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI) SOUND MITIGATION ACOUSTICAL REMEDY TREATMENT (SMART) PROGRAM PHASE VII (ACOUSTICAL INSULATION TO 122 HOMES IN THE VICINITY OF FYI)

(1-J) RESOLUTION NO. 2003-269 - ACCEPT GRANT AWARD OF \$17,193 FROM THE OFFICE OF HOMELAND SECURITY, OFFICE OF EMERGENCY SERVICES, AND AUTHORIZE THE COMPLETION OF ALL RELATED DOCUMENTS

a. RESOLUTION NO. 2003-270 - 19TH AMENDMENT TO AAR 2003-209 APPROPRIATING \$17,200 TO THE POLICE DEPARTMENT FOR REIMBURSEMENT FROM THE DEPARTMENT OF HOMELAND SECURITY

(1-K) DECLARING THE LOW BIDDER, WEAVER ELECTRIC, INC. OF ANAHEIM, CA, NON-RESPONSIVE, AND REJECT ALL BIDS FOR DESIGN, BUILD AND MAINTAIN A LIQUIFIED/COMPRESSED NATURAL GAS FUELING FACILITY AND DIRECT STAFF TO REBID THE PROJECT

(1-L) AWARD A CONTRACT TO AGREE CONSTRUCTION CORP. OF CLOVIS, CA, IN THE AMOUNT OF \$1,451,075, BASE BID ONLY, FOR WIDENING OF FRIANT ROAD BETWEEN E. AUDUBON DRIVE AND E. SHEPHERD AVENUE

(1-M) APPROVE AGREEMENT WITH KRAZAN & ASSOCIATES FOR \$72,000 FOR MATERIALS TESTING OF THE FRESNO-CHANDLER DOWNTOWN AIRPORT AIRFIELD IMPROVEMENTS, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR AND DIRECTOR OF TRANSPORTATION TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-O) RESOLUTION NO. 2003-271 - APPROVING THE FINAL MAP OF TRACT NO. 4697 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, SOUTHWEST CORNER OF W. DAKOTA AND N. CORNELIA AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT, THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR TEMPORARY DRAINAGE FACILITIES

2. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR FRONT YARD TREES

(1-P) APPROVE APPOINTMENT OF JENNETTE WILLIAMS TO THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT - MAYOR AUTRY

(1-Q) RESOLUTION NO. 2003-272 - ESTABLISHING DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM GOALS FOR 2003-2004 IN U.S. DEPARTMENT OF TRANSPORTATION (DOT) ASSISTED PROJECTS/CONTRACTS FOR THE FEDERAL HIGHWAY ADMINISTRATION (FHWA), FEDERAL AVIATION ADMINISTRATION (FAA), AND THE FEDERAL TRANSIT ADMINISTRATION (FTA)

(1-R) AWARD A CONTRACT TO ROBERT BAIDA FOR INDEPENDENT ADMINISTRATIVE HEARING OFFICER SERVICES FOR EIGHT DAYS PER MONTH, AT THE RATE OF \$600 PER EIGHT HOUR DAY

On motion of Councilmember Dages, seconded by Acting President Castillo, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
 Noes : None
 Absent : None

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The City Council recessed at 9:32 a.m. and convened in joint session with the Redevelopment Agency.

(8:30 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

(“A”) STATUS REPORT ON POTENTIAL NEW REDEVELOPMENT PLAN AREAS AND DIRECTION TO AGENCY STAFF TO BEGIN THE PROCESS FOR SELECTING CONSULTANTS AND INITIATING THE TWO NEW PLAN AREAS AND RELATED PLAN AMENDMENTS

Redevelopment Administrator Murphey reviewed the issue as contained in the staff report as submitted, and Agency Director Fitzpatrick reemphasized the identified boundaries were very preliminary and staff and the consultants would start to refine them in a couple of days. Chair Duncan acknowledged and welcomed former Agency Chair/Councilmember Dan Ronquillo.

City Manager Hobbs stated he was very concerned with how broad the southeast boundaries were as they would take in the future Fancher Creek project, noted the project had wonderful potential and opportunity for the city and advised if that valuable property were to be taken in the property tax would not go into the general fund but would be treated as tax increment and could only be spent in the project area, emphasized the City needed to scramble for every dollar for the general fund to pay for public safety in the upcoming years, and acknowledging the boundaries were not firm stated an analysis was needed and requested the Controller and Planning/Development Director be involved in the boundary refinement process.

Councilmember Perea stated he wanted staff to meet with area neighborhoods before the process and noticing to insure any concerns are heard. Upon question of Councilmember Dages, Ms. Murphey clarified there would be no eminent domain on occupied residential properties. A motion and second was made to approve staff's recommendation. Councilmember Calhoun stated he shared Mr. Hobbs' thoughts and he wanted to insure the redevelopment process moved forward appropriately such as the Freeway 99 Corridor project. Councilmember Sterling spoke briefly in support and to the importance of the issue stating this would expand the possibilities for vacant properties in her district and added all the monies that will go into the areas will help enhance the economic viability of the city. Acting President Castillo stated Mr. Hobbs' concern relative to property taxes going into redevelopment areas and not being available for public safety was a legitimate concern and he would be looking for (1) community involvement in the decision making and (2) not using tax dollars in redevelopment areas that may not be blighted that would be better spent in the general fund. Chair Duncan reiterated this proposal was very preliminary at this point, added redevelopment areas did not necessarily create a drain on the general fund and could, in fact, help the general fund as a financing vehicle to reinvest tax dollars back into neighborhoods, and stated all concerns expressed would be addressed through the process.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, Redevelopment Agency staff directed to negotiate contracts for redevelopment and environmental services with Keyser Marston Associates, Inc., and URS Corporation, bring the contracts back for approval, and initiate the plan adoption and amendment process, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Dages, Perea, Sterling, Duncan
 Noes : None
 Absent : None

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The joint bodies recessed to 2:00 p.m. for a joint closed session and the City Council reconvened in regular session at the hour of 9:48 a.m.

(2-A) REPORT TO COUNCIL ON STATE BUDGET IMPACTS AND MITIGATING OPTIONS, AND DIRECT STAFF, WITH THE ASSISTANCE OF THE CITY ATTORNEY'S OFFICE, TO PROCEED WITH THE ISSUANCE OF BOND ANTICIPATES NOTES (BANS) TO BE BACKED BY THE MOTOR VEHICLE IN LIEU BACKFILL REPAYMENT FROM THE STATE OF CALIFORNIA

Controller/Finance Director Quinto reviewed the issue at length, all as contained in the staff report as submitted, displaying a chart showing the total impact of the State's budget to the City's General Fund in FY 2004 to illustrate. Mayor Autry spoke in support of bonding, stated there were very unique circumstances here and explained, and stated the State would not move unless the City put pressure on their commitment to pay back the deferred vehicle license fees (VLF).

Mayor Autry and Ms. Quinto responded questions of Acting President Castillo relative to whether discussions had been held with other League of California Cities members on what direction they were taking. Councilmember Duncan spoke in opposition to bonding to pay operational expenses and to the lack of options and information on what the impact would be to the City if bonds are not issued and requested staff take public safety impacts off the table, get feedback from the community, and report back in two weeks with other options. Ms. Quinto clarified other major impacts would be to parks & recreation and neighborhood projects. Councilmember Dages questioned if the reserve would be jeopardized and if bonding would make the city budget whole, and spoke in support of the issue and made a motion to approve staff's recommendation **(3 - 0)**. Councilmember Calhoun seconded the motion and concurred this would put pressure on the State, would not jeopardize the General Fund, and would get the City over this difficult time of the State "jacking" with the city. Upon question of Councilmember Perea, Mayor Autry stated he was 100% in support of bonding clarifying this was a plan to get the City's dollars back and possibly save the reserve. Councilmember Perea stated bonding would be for basic city services and he would support the motion. Upon question of Acting President Castillo, Ms. Quinto clarified staff's recommendation did not include a report back with options but advised staff could meet with council members on the results of the LCC survey and any other issues. Acting President Castillo stated he wanted to see (1) what risk mitigation measures were in place in case the State says in 2006 they can not pay back the money and (2) where the interest money on the reserve funds were being used.

Assistant City Manager Souza further clarified this was a receivable payment coming from the State and the City was issuing anticipation notes in anticipation of that receipt which was a common practice and one the City has entered into before. Ms. Montoy stated some of the analysis her office would be doing would relate to the binding effect of the State's obligation and the State facing bond holders. Relative to comments made on business practices, Councilmember Duncan stated borrowing money for inventory made sense and was commonly done but there was an asset to protect the borrower, relative to borrowing on receivables stated the quality of receivables was at issue and he felt the State's word did not mean much, and reiterated his concern with borrowing money for general fund purposes and requested action be delayed to have staff report back with options.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, staff directed to proceed with the issuance of Bond Anticipation Notes (BANs) in the amount of \$5.08 million to be backed by the Motor Vehicle In-Lieu backfill repayment from the State of California, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Perea, Sterling, Boyajian
Noes	:	Duncan
Absent	:	None

(2-B) * BILL NO. B-69 - ORDINANCE NO. 2003-74 - AMENDING AND ADDING TO FRESNO MUNICIPAL CODE CHAPTER 10, ARTICLES 1 AND 10, TO ALLOW FOR UP TO FOUR MOTORCYCLES TO BE PARKED IN ON-STREET AND OFF-STREET METERED AND UNMETERED PARKING SPACES

On motion of Acting President Castillo, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled Bill No. B-69 adopted as Ordinance No. 2003-74, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(2-C) * BILL NO. B-70 - ORDINANCE NO. 2003-75 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO SEWAGE AND WATER DISPOSAL

On motion of Councilmember Dages, seconded by Acting President Castillo, duly carried, RESOLVED, the above entitled Bill No. B-70 adopted as Ordinance No. 2003-75, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

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(10:00 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 54, TRACT NO. 4974

1. RESOLUTION NO. 2003-273 - ANNEXING TERRITORY TO CFD NO. 2 AND AUTHORIZE THE LEVY OF A SPECIAL TAX

2. RESOLUTION NO. 2003-274 - CALLING SPECIAL MAILED BALLOT ELECTION

3. RESOLUTION NO. 2003-275 - DECLARING ELECTION RESULTS

4. BILL NO. B-76 - ORDINANCE NO. 2003-76 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Boyajian announced the time had arrived to consider the issue and opened the hearing.

Assistant Public Works Director Kirn gave a brief overview of the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Boyajian closed the hearing.

On motion of Acting President Castillo, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution Nos. 2003-273, 2003-274 and 2003-275 hereby adopted, the above entitled Bill No. B-76 adopted as Ordinance No. 2003-76, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

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(10:05 A.M.) PRESENTATION BY SBC TO PROVIDE AN UPDATE ON THEIR INVESTMENTS IN TELECOMMUNICATIONS - PRESIDENT BOYAJIAN

Cindy Lee, SBC, submitted written follow-along material on her presentation, on file in the office of the city clerk, and spoke at length to SBC's more than \$70 million investment in Fresno's telecommunications network infrastructure and responded briefly to questions relative to the advantage of this infrastructure to businesses interested in locating in Fresno.

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(10:10 A.M.) HEARING ON REZONE APPLICATION NO. R-03-036 AND ENVIRONMENTAL FINDINGS, FILED BY GARY GIANNETTA, PROPERTY LOCATED ON THE EAST SIDE OF N. POLK AVENUE BETWEEN W. GETTYSBURG AND W. SANTA ANA AVENUES (DISTRICT 2)

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-036 , FINDING OF CONFORMANCE WITH THE 2025 FRESNO GENERAL PLAN MASTER EIR NO. 10130

2. BILL NO. B-77 - ORDINANCE NO. 2003-77 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AE-5 TO R-1

President Boyajian announced the time had arrived to consider the issue and opened the hearing. An unidentified staff representative gave a brief overview of the issue as contained in the staff report as submitted. Acting President Castillo left the meeting at 10:38 a.m.

Gary Giannetta, representing the property owner, requested Council approval.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

The staff representative and Planning Manager Beach responded to questions/comments of President Boyajian relative to developer contributions to road improvements and need for developers to pay their fair share.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, Environmental Assessment No. R-03-036, dated June 30, 2003, resulting in a Finding of Conformance with the 2025 General Plan MEIR No. 10130 hereby approved, and the above entitled Bill No. B-77 rezoning the subject property adopted as Ordinance No. 2003-77, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling
Noes	:	Boyajian
Absent	:	Castillo

(10:15 A.M. #1) HEARING ON REZONE APPLICATION NO. R-03-027, FILED BY YOSEMITE POINT PARTNERSHIP, PROPERTY LOCATED ON THE EAST SIDE OF N. BLYTHE AVENUE SOUTH OF W. ASHLAN AVENUE (DISTRICT 1)
(CONTINUE TO SEPTEMBER 23, 2003, AT 2:30 P.M.)

Continued as noted.

(10:15 A.M. #2) HEARING TO CONSIDER RESOLUTION OF PUBLIC USE AND NECESSITY FOR THE ACQUISITION OF PERMANENT EASEMENT AND RIGHT OF WAY FOR PUBLIC STREET PURPOSES, PROPERTY LOCATED ON TWO ASSESSOR'S PARCELS (APNs 404-082-02 AND -05 OWNED BY LESLIE L. SASSANO), FOR THE WIDENING OF HERNDON AVENUE BETWEEN CEDAR AND WILLOW AVENUES (DISTRICT 6)

1. * RESOLUTION NO. 2003-276 - DETERMINING PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF THE PERMANENT EASEMENT AND RIGHT OF WAY AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Senior Real Estate Agent Balch reviewed the issue as contained in the staff report as submitted; advised staff has been unable to reach agreement with the property owner on the price and stated the eminent domain process would allow the negotiations to continue; and spoke to the public need and necessity to acquire the property and recommended the resolution be adopted. Acting President Castillo returned to the meeting at 10:46 a.m.

Speaking in opposition to staff's recommendation were Leslie Sassano, property owner, who also clarified he was not opposed to the project and his concern was with the process from the beginning and explained; Barbara Hunt, 2475 S. Walnut; and Greg Sassano, who spoke in support of his father, stated the issue was handled unprofessionally by staff, and expressed concern with the lack of access to the property.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

Mr. Balch responded to questions of Councilmember Duncan relative to access and the selling price issues. Councilmember Duncan clarified there was no direct access anywhere along the Herndon corridor and special access could not be given anywhere on Herndon, stated Herndon needed to be widened and there was a public need, and made a motion to approve staff's recommendation.

Discussion continued with Mr. Balch and Assistant Public Works Director responding to questions, comments and/or concerns of Acting President Castillo and Councilmember Dages relative to whether there were any other issues outstanding aside from direct access, if the City's offer was consistent with the appraisal, if the property owner had his property appraised, and if price negotiations could continue if the resolution was adopted this date. Councilmember Dages expressed concern with the price being offered by the City stating the value of the property was much higher, with Mr. Balch clarifying this was land subject to dedication and Mr. Elam adding this was for an easement and the City was not actually buying the property. President Boyajian questioned if the property owner currently resided on the property, if

the land was vacant, why access to Herndon was so important to the property owner, if price **(4 - 0)** and access were at issue, and why the property owner had not done his own appraisal/hired an appraiser, with Mr. Balch and Mr. Sassano responding.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2003-276 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	Castillo
Absent	:	None

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(10:20 A.M.) HEARING ON REZONE APPLICATION NO. R-03-039 AND ENVIRONMENTAL FINDINGS, FILED BY TIM NASELROAD, PROPERTY LOCATED ON THE NORTH SIDE OF E. AUSTIN WAY NORTH OF E. ASHLAN AND WEST OF N. CHESTNUT AVENUES (DISTRICT 4)

1. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. R-03-39

2. BILL NO. B-78 - ORDINANCE NO. 2003-78 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-1-B TO R-2, AS AMENDED WITH FENCE CONDITION

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Acting President Castillo and an unidentified staff member gave a brief overview of the issue, and a motion was made to adopt the ordinance with the fence condition.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, support; and Tim Naselroad, applicant/owner, who spoke to the project, expressed concern with the condition for the solid wall fence citing the tagging that would take place, and clarified his plan called for single story building.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

Upon question of President Boyajian and Acting President Castillo, staff confirmed the fence was requested by the resident due to trash concerns and recommended by the planning commission, and clarified staff was recommending approval without the fence condition due to graffiti and tagging problems. Acting President Castillo stated he will always be sensitive to residents' concerns and explained and stated would make the fence a condition of approval.

On motion of Acting President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, Corrected Environmental Assessment No. R-03-039, dated August 7, 2003, resulting in a Class 119 Categorical Exemption hereby approved, and the above entitled Bill No. B-78 adopted as Ordinance No. 2003-78, as amended with the fence condition as recommended by the planning commission, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

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(10:30 A.M.) HEARING ON REZONE APPLICATION NO. R-03-29 AND ENVIRONMENTAL FINDINGS, FILED BY MAURICE AND VIOLET MESPLE, PROPERTY LOCATED AT 1370 E. ALLUVIAL (DISTRICT 6)

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-29, RESULTING IN A CLASS 5 CATEGORICAL EXEMPTION

2. BILL NO. B-79 - ORDINANCE NO. 2003-79 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-P/UGM/cz, WITH CONDITIONS OF ZONING AND WILL REMAIN R-P/UGM/cz WITH CONDITIONS OF ZONING

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Councilmember Duncan recused himself from proceedings and left the dais at 11:12 a.m.

Planner Girster gave a brief overview of the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Castillo, duly carried, RESOLVED, Environmental Assessment No. R-03-29, resulting in a Class 5 Categorical Exemption hereby approved, and the above entitled Bill No. B-79 adopted as Ordinance No. 2003-79 with the five (5) conditions of zoning outlined in the staff report, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None
Recused	:	Duncan

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(10:35 A.M.) HEARING ON REZONE APPLICATION NO. R-03-33, FILED BY VALLEY PACIFIC BUILDERS, INC. AND ART BOLANOS, PROPERTY LOCATED ON THE NORTHWEST SIDE OF N. SALINAS BETWEEN N. FIGARDEN DRIVE AND W. SAN JOSE AVENUE, BETWEEN THE ALIGNMENTS OF N. BRAWLEY AND N. CORNELIA AVENUES (DISTRICT 2)

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-3, T-5184, C-03-90, FINDING OF CONFORMANCE WITH THE 2025 FRESNO GENERAL PLAN MASTER EIR NO. 10130

2. BILL NO. B-80 - ORDINANCE NO. 2003-80 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-A/UGM TO R-1/UGM

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Councilmember Duncan returned to the meeting at 11:14 a.m. Planner Brock gave an overview of the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, questioned the spelling “Figarden” Drive.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

Councilmember Calhoun spoke in support and made a motion to approve staff’s recommendation.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the finding of Environmental Assessment No. R-03-33, T-5184, C-03-90, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-80 rezoning the subject site adopted as Ordinance No. 2003-80, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

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(10:40 A.M.) HEARING ON REZONE APPLICATION NO. R-03-35 AND ENVIRONMENTAL FINDINGS, FILED BY GRETCHEN AND DARRYL FREEDMAN, PROPERTY LOCATED AT 2556 N. BLYTHE AVENUE (DISTRICT 1)

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-035, RESULTING IN A CLASS 32 CATEGORICAL EXEMPTION

2. BILL NO. B-81 - ORDINANCE NO. 2003-81 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AE-5/UGM TO R-1/UGM

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Planner Girster gave a brief overview of the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

On motion of President Boyajian, seconded by Councilmember Dages, duly carried, RESOLVED, Environmental Assessment No. R-03-035, resulting in a Class 32 Categorical Exemption hereby approved, and the above entitled Bill No. B-81 rezoning the subject property adopted as Ordinance No. 2003-81, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(10:50 A.M.) HEARING ON REZONE APPLICATION NO. R-03-31 AND ENVIRONMENTAL FINDINGS, FILED BY FRESNO INVESTMENT GROUP AND RUNNING HORSE, PROPERTY LOCATED ON THE NORTHWEST CORNER OF S. MARKS AND W. MADISON AVENUES, RELATED TO TRACT NO. 5206 (DISTRICT 3)

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-31/T-5206, FINDINGS CONFORM TO THE PROVISIONS OF THE 2025 FRESNO GENERAL PLAN MASTER EIR NO. 101030

2. BILL NO. B-82 - ORDINANCE NO. 2003-82 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-A/UGM TO R-1/UGM

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Planner Lewis gave a brief overview of the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in support of the issue and to the need to employ locals during construction.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

Councilmember Sterling spoke in support and made a motion to approve staff's recommendation. President Boyajian stated his overriding consideration has always been the need for developers to contribute to impacts and stated he supported the project due to the housing and economic development it would bring to District 3.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the environmental finding of Environmental Assessment No. R-03-31/T-5206, dated July 16, 2003, that the project proposal conforms to the provisions of the 2025 Fresno General Plan MEIR No. 10130 hereby approved, and the above entitled Bill No. B-82 rezoning the subject property adopted as Ordinance No. 2003-82, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(3-E) REQUEST STATUS REPORT OF THE RUNNING HORSE PROJECT INCLUDING AN UPDATE ON THE \$50,000 FINANCIAL FEASIBILITY STUDY - ACTING PRESIDENT CASTILLO

Planning & Development Director Yovino gave a brief update stating much of the information had been submitted in the last 10 days and staff was currently in the process of reviewing it, noted additional financial information, design work and money from the developer for the feasibility study was needed, and spoke to the deadlines involved and advised staff would be providing an additional status report on September 16th. Upon question of Acting President Castillo and President Boyajian, Mr. Yovino stated it would take 30 to 60 days to do the feasibility study provided all information is provided, and staff and the developer were both on the same page relative to what information was needed. There was no further discussion.

(3-D) DIRECT EXECUTION OF CONTRACT WITH GLOBAL SPECTRUM RELATING TO CONVENTION CENTER OPERATIONS BE DELAYED PENDING RESOLUTION OF FLORIDA LITIGATION ISSUES BETWEEN GLOBAL SPECTRUM AND SMG - COUNCILMEMBER CALHOUN

1. SET HEARING TO SET ASIDE THE AWARD OF CONTRACT WITH GLOBAL RELATING TO CONVENTION CENTER OPERATIONS

Councilmember Calhoun noted his item was two-fold and he would be making two motions; reviewed **3-D** stating it was learned a Florida court agreed to a hearing on September 9th on a judgment made on Global Spectrum, noted that court case did not come to Council's attention until after the contract was awarded to Global, questioned if Council's decision would have been impacted if full disclosure and public discussion on the merits of that case had taken place, and stated Council should have had all information before them before making a decision; and made a motion to delay the execution of the contract with Global Spectrum relating to the Convention Center operations pending resolution by the Florida court, or, further alternative direction by Council.

President Boyajian requested a report from the Council Committee whereupon the following item was considered.

(3-C) STATUS REPORT ON GLOBAL CONTRACT NEGOTIATION FROM COUNCIL COMMITTEE - ACTING PRESIDENT CASTILLO

Acting President Castillo stated everyone had been working diligently to try to get the agreement ironed out; stated because the Convention Center did not have a contract manager it was difficult for a group, event or convention to make a commitment to a city that does not have someone managing the Convention Center and advised of the events that had been lost due to the lack of an agreement with Global to secure venues; stated any further delay in executing the contract would further allow for the bleeding of venues and would cost the City more money; stated SMG was doing the City a disservice by bringing this issue forward and asking for a delay; and relative to the September 9th Florida hearing clarified it was only a hearing, there was no confirmation a decision would be rendered in one or two weeks or even two months, and urged Council to not support Councilmember Calhoun's above motion. Upon question of President Boyajian, Assistant City Manager Souza stated significant headway had been made and key provisions had been put in place, and advised the only open item was a problem with the tax law as related to the rebate of the fixed fee and explained. Acting President Castillo reiterated the tax law issue would have come up no matter who the contract had been awarded to.

Upon call, Councilmember Duncan seconded Councilmember Calhoun's motion.

Speaking to the issue were: Alex Correa, representing FCEA, opposed to the motion; Barbara Hunt, 2475 S. Walnut, support for the motion; Doug Jensen, Baker, Manock and Jensen, representing SMG, support for the motion/spoke to misrepresentations by Global that Council should have been made aware of per the RFP; Dean Dennis, Global Spectrum, opposed to the motion/stated no misrepresentations were made; and Wes Westly, President, SMG, support for the motion **(5 - 0)** stating this was about SMG's reputation and having the best for the city.

Councilmember Duncan clarified there was not unanimous committee consensus that events were lost because there was no signed agreement, and spoke in support of the motion, noted the hearing was in the near future and he felt a few more weeks in the big scheme of things would not make a big difference, stated Council needed to let the court issue run out so that the law of unintended circumstances does not come back and create more problems, and stated there was still a lot of work to do and a delay was needed until the outcome of the court case was known.

City Attorney Montoy referenced a Fresno Bee article and clarified she stated the City of Fresno was not a party to the Florida litigation action and it was probably in the City's best interest at this time to move forward with the continued negotiations and contract; reviewed the background on the information received from Mr. Jensen on the "emergency" hearing in the Florida court clarifying the court denied an "emergency" hearing and explained; noted there were a lot of issues and stated it was a policy call on whether Council wanted everything resolved first and then negotiate or continue negotiations and see where things end up; and stated this was a difficult situation as there was no sure way to say a court would never prohibit Global from entering into an agreement with the City but added based on her best judgment she believed that possibility was more remote than not.

Councilmember Sterling stated history was being made with the outsourcing, she was comfortable with the employee transitioning, and stated some events were being lost and the City needed to continue to move forward with its contractual obligations.

Councilmember Dages noted a comment by Mr. Dennis bothered him and stated there was a pending suit against Global and at this point he did not feel comfortable; spoke to the lack of management comment and clarified Interim Director Sweeney was managing the Convention Center and trying to attract events; presented questions relative to why the City lost the Globetrotters and if the Convention Center was told to operate any differently than before (with Mr. Souza responding); stated he did not feel a short delay would jeopardize the agreement with Global and expressed concern in that he did not know the agreement did not have to come back to Council; and reiterated he did not like what was going on and stated he would support the motion.

Ms. Montoy noted there was a also a disagreement on whether there was a court order, judgment or settlement and whether it applied to Global Spectrum because the order applied to an entity called Global Facilities; and noted the hearing was scheduled for September 9th and it was unknown whether the court would render a decision on that day.

President Boyajian stated the integrity of Council was very important and stated even though he voted against Global because he did not feel they could make the deal he felt Council needed to let the process move forward, presented questions relative to the incentive clause, if staff felt an agreement was being reached, and if prior direction was for the contract to come back to Council if a deal could not be reached (with Mr. Souza responding affirmatively), and stated the Florida case did not go to the essence of the City's contract and reiterated the integrity of Council was important, Council voted on a process, and the vote needed to be respected. An SMG representative added the integrity of the RFP process was also important and further added there was a Federal court injunction in place.

A motion of Councilmember Calhoun, seconded by Councilmember Duncan, to delay execution of the contract with Global Spectrum pending resolution of Florida litigation issues between Global Spectrum and SMG failed, by the following vote:

Ayes	:	Calhoun, Dages, Duncan
Noes	:	Castillo, Perea, Sterling, Boyajian
Absent	:	None

Upon question of the SMG representative, Ms. Montoy clarified a motion was not made on **3D-1**.

1. SET HEARING TO SET ASIDE THE AWARD OF CONTRACT WITH GLOBAL RELATING TO CONVENTION CENTER OPERATIONS

Councilmember Calhoun stated all the information that had come forward needed to be publicly addressed and made a motion to set a hearing.

A motion of Councilmember Calhoun, seconded by Councilmember Duncan, to schedule a public hearing to set aside the award of contract with Global relating to Convention Center operations failed, by the following vote:

Ayes	:	Calhoun, Duncan, Boyajian
Noes	:	Castillo, Dages, Perea, Sterling
Absent	:	None

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LUNCH RECESS - 12:24 P.M. - 2:02 P.M.

(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:

(1-C) RESOLUTION NO. 2003-277 - APPROVING THE RECLASSIFICATION OF \$66,300 FROM CONTINGENCY AS THE 11.47 PERCENT LOCAL MATCH FOR CMAQ PROJECT COSTS TO BE INCURRED IN THE FIRST QUARTER OF FISCAL YEAR 2004

Assistant Public Works Director Jarvis, City Manager Hobbs and an unidentified staff member responded at length to questions of Acting President Castillo relative to whether some of the projects were mitigation requirements placed on Fresno State for the Save Mart Arena, if easement acquisitions were part of the money, if dialog had occurred with Fresno State on costs, EIR requirements relative to on-ramp expansions, who made the determination that the Shaw/Cedar intersection would not be impacted until 2020, why City dollars were being

used for projects around the Save Mart Arena, what intersections were included in the \$577,000 and what type of work would be done on those intersections, total value of all the projects, what Fresno State's feeling/position was on the projects and costs, Caltrans' determination that no improvements were required at Freeway 168 & Shaw and what that determination was based on, and if staff had written documentation from Caltrans on their determination. A motion and second was made to approve staff's recommendation. Mr. Jarvis responded briefly to questions of President Boyajian relative to some of the projects and how they related to the funding Fresno State lost, and if these projects were related to the Save Mart Arena **(6 - 0)** and if they would have been done whether the Arena came in or not.

On motion of Acting President Castillo, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2003-277 hereby adopted, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(1-D) APPROVE AMENDMENT TO AGREEMENT WITH ALLRED ENGINEERING FOR PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES AT THE NORTHEAST SURFACE WATER TREATMENT FACILITY (SWTF)

(1-E) APPROVE A CONTRACT AMENDMENT WITH CAROLLO ENGINEERS FOR CRITICAL PATH METHOD (CPM) CONSTRUCTION SCHEDULING REVIEW SERVICES AT THE NORTHEAST SURFACE WATER TREATMENT FACILITY (SWTF)

Councilmember Calhoun stated he had the same concerns for both **1-D** and **1-E**, noted Mauldin-Dorfmeier had fallen behind on their contract, cited their problems at the airport and questioned why Mauldin-Dorfmeier got behind, stated he wanted to make sure these consultants were not being hired at the 11th hour to do Mauldin-Dorfmeier's work, questioned if staff was comfortable that Mauldin-Dorfmeier could keep the projects on time, and if staff should have made Council aware of the problem due to the size and complexity of the projects, with Public Utilities Director McIntyre responding. A motion and second was made to approve 1-D.

Acting President Castillo presented questions relative to why two different contractors needed to be hired and if there was an engineer in-house that could perform the needed services, with Mr. McIntyre, City Manager Hobbs and Assistant City Manager Esquivel responding and clarifying issues and needs. Councilmember Duncan complimented staff on the progress being made and stated the SWTF would now be on time and within budget thanks to them. Mr. McIntyre responded further to questions of President Boyajian relative to Mr. Allred's involvement in the stadium project, the cost being paid and what services Allred Engineering would be performing, if construction management services were not negotiated when the contract was awarded to Mauldin-Dorfmeier, if the services would mitigate any change orders, and funding source.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the amendment to the agreement with Allred Engineering (Item **1-D**) for construction management services in the amount of \$370,000 hereby approved, and the City Manager/designee authorized to execute the agreement on behalf of the City, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the amendment to the agreement with Carollo Engineers (Item **1-E**) for Critical Path Method (CPM) construction scheduling review services at the SWTF in the amount of \$75,000 hereby approved, and the City Manager/designee authorized to execute the agreement on behalf of the City, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(1-N) APPROVE AMENDMENT NO. 3 TO THE LEASE AND AGREEMENT WITH CCA SILBAND/GOLF CORP, INC., (AIRWAYS GOLF COURSE)

Councilmember Calhoun spoke to, presented questions, and/or expressed concerns relative to airports staff supervising a golf course, the golf course being so much “in the hole”, the serious number of rounds decreasing, if city staff was the best way to manage a golf course, how this situation got to this point, if the fees were not being increased because the golf course is heavily utilized by seniors and youth, why staff has not considered an increase due to the hole, if it was solely Airports responsibility to run the golf course, if airports staff spent much time providing oversight, and need for staff to pay attention to the decrease in rounds, with Deputy Airports Director Card and City Manager Hobbs responding to questions and clarifying issues. A motion and second was made to approve staff’s recommendation. President Boyajian noted the golf course was a short course and one for certain people like seniors and was by-passed by a lot of golfers, and stated the fees for golfing and swimming were reasonable and Airways provided a great service to the community.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, Amendment No. 3 to the Lease and Agreement with CCA Silband/Golf Corp, Inc., hereby approved, and the Director of Transportation authorized to execute the same on behalf of the City, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(1-S) * BILL NO. B-83 - AMENDING THE FRESNO MUNICIPAL CODE TO ALLOW FOR FREE PARKING AT PARKING METERS AND SELECT CITY-OWNED PARKING FACILITIES FOR QUALIFIED LOW EMISSION VEHICLES (LEVs)

Councilmember Calhoun stated he was surprised this item was placed on the consent calendar noting this ordinance was the recommendation of Councilmember Perea; stated he supported cleaning the air and staff moving forward on dealing with problem of air pollution but stated this issue dealt with parking and he felt the two issues should not be mixed; and stated he was opposed to this ordinance because (1) it was wrong to make parking free, (2) LEVs were not cheap cars and people bought them for reasons other than free parking, (3) this was a “slippery slope” and other groups (i.e., car-poolers) would be asking for the same thing, and (4) the ordinance would not terminate in one year, and clarified he supported the existing policy for reduced parking rates for LEVs.

Public Works Manager Madewell responded to questions of Councilmember Duncan relative to number of LEVs statewide, if the free parking would apply only to privately-owned LEVs, number of privately owned LEVs in Fresno, if the car-pooling program was coming forward, if there were any guidelines on how staff will measure the success of this one-year program, other vehicles qualifying as LEVs and not recognized by federal guidelines, if future new models that come out will be reviewed, and how vehicles will be recognized.

Councilmember Perea thanked staff for all their work on the ordinance, stated he was not surprised with the same opposition, and made a motion to introduce the ordinance. President Boyajian stated this was being done in the bay area and he felt this was more of a leadership issue in the hope that more people would avail themselves to LEVs.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Bill No. B-83 introduced before the Council and laid over, by the following vote:

Ayes	:	Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	Calhoun
Absent	:	None

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(2:00 P.M. #2) CLOSED SESSION:

(A) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATION: FRESNO CITY EMPLOYEES ASSOCIATION (FCEA)

(B) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. ELIZABETH GUTIERREZ, GEOFFREY GUTIERREZ V. COF, ET AL; USDC CASE NO. CIV-F-02 5795 OWW/SMS

2. LENG XIONG V. COF, FRESNO POLICE OFFICERS BRIAN HECK, CHRISTOPHER DESMOND, BRAD HAGA AND PHIA VANG
3. FRESNO POLICE OFFICERS ASSOCIATION (FPOA) AND WILLIAM DRAGOO, RONALD PASSMORE, LAWRENCE BERTAO, DANIEL MONTEVECCHI AND ROGER ENMARK V. COF RETIREMENT BOARD AND COF

(C) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - CASE NAMES:

1. CLAMS OF SANDY MOUA, THERESA MOUA, ET AL.
2. CLAM OF CHAU VUE AND MAYCHA VANG (A MINOR, BY AND THROUGH ME VANG, HER GUARDIAN)

(D) JOINT CLOSED SESSION WITH THE FRESNO RECREATIONAL FACILITIES FINANCING AUTHORITY - CASE NAME: CITY OF FRESNO; FRESNO RECREATIONAL FACILITIES FINANCING AUTHORITY, A JOINT EXERCISE OF POWERS AGENCY V. PETER STRAVINSKI, KIMBERLY STRAVINSKI, ET AL (PALM LAKES)

(E) JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY - CONFERENCE WITH REAL PROPERTY NEGOTIATORS:

PROPERTY: 1807 BROADWAY, APN 466-19-413

CITY NEGOTIATORS: CITY MANAGER, ASSISTANT CITY MANAGER AND DIRECTOR OF DEVELOPMENT

NEGOTIATING PARTIES: MACKIE & GREG GOSTANIAN

UNDER NEGOTIATION: ACQUISITION OF REAL PROPERTY

The City Council met in regular closed session and joint closed session with the Fresno Recreational Facilities Financing Authority and the Redevelopment Agency in Room 2125 at the hour of 3:01 p.m. to consider the above issues and reconvened in regular open session at 4:45 p.m.

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(3:30 P.M.) AWARD A CONTRACT TO ORANGE AVENUE DISPOSAL, INC. OF FRESNO FOR THE TRANSFER, PROCESSING AND DISPOSAL OF MUNICIPAL SOLID WASTE, CONSTRUCTION AND DEMOLITION MATERIALS, ASPHALT AND CONCRETE MATERIALS, AND HOUSEHOLD HAZARDOUS WASTE MATERIALS

Councilmember Dages recused himself due to a conflict of interest and left the meeting at 4:46 p.m. **(7 - 0)** General Services Director Nerland advised the RFP would expire on August 31st and requested Council direction as to what appropriation action to take rather than let the RFP and the proposals expire. Public Utilities Director McIntyre commended Sunset for their great work on the recycling contract and also the independent RFP selection committee for their commitment and tremendous amount of rigorous work, and summarized the issue as contained in the staff report as submitted recommending a contract be awarded to Orange Avenue Disposal (OAD).

Speaking to the issue were: Richard Caglia, Industrial Waste & Salvage/Orange Avenue Disposal, 3280 S. Orange, who spoke in support of staff's recommendation; Val Saldana, 5200 N. Palm, Ste. 401, on behalf of Sunset Waste Paper, who requested a professional analysis of the two proposals and advised Sunset would pay one-half the cost of the analysis; Lee Brock, 1300 Manhattan Avenue, Manhattan Beach, CA, support for Sunset; Harland Kelly, 3378 W. Kearney Boulevard, West Fresno/Edison Advisory Committee, support for Sunset; Myer Keels, 1060 Jones, who requested Council do what was best for the community; John Raymond, 668 E. Teal Circle, support for OAD; David Esqueda, 3322 E. Brown, support for OAD; Dameon Harris, 1037 E. Belgravia, support for OAD; Len Harris, 103 E. Tuolumne, support for OAD; and Evan Edgar, Civil Engineer, on behalf of hauling companies and transfer stations, support for OAD.

Upon call, no one else wished to be heard and President Boyajian closed public testimony.

Councilmember Duncan stated he did not give a lot of credit to a competitor who attacks a business company that passed the scrutiny that OAD did; stressed this should have been a consent item, this was an issue of economics, and OAD should be selected because of the \$22 million in savings and the proper process that was followed; made a motion to approve staff's recommendation (which was seconded by Councilmember Calhoun and later acted upon); and noting OAD had a \$1 million bond in place to protect the city questioned if Sunset Waste did, with Mr. Nerland responding Sunset did not have a bond in place at this time.

Upon question of Acting President Castillo, Mr. Nerland stated household waste was not part of the contract. Acting President Castillo spoke to the issue at length stating alternatives and strategies were left out of the package and he wanted to know what the dollar value of those alternatives and strategies was so he could make a decision and elaborated; stated he felt an independent party could look at those alternatives and quantify the dollar value and determine whether they could be done or not; stated he would not support the motion because Council was not giving itself the benefit of the doubt to find out what those alternatives would mean to the city in the long run; noted IWS priced its alternatives in their RFP but that information was not part of the package; questioned why the information was not submitted and why someone would submit a proposal which required the City to break a contract; stated his concerns were an RFP process that opened the City up to on-going litigation and Council never had a cut and dry decision to make; and questioned if all the information on this issue could be packaged up for the grand jury per their request, with Mr. McIntyre and City Attorney Montoy responding throughout.

Councilmember Sterling stated she wanted to dispel a rumor and stated her son was not working for Sunset; clarified she did ask for a campaign contribution from Sunset within the law but did not ask the Caglia family as they were also in a race and she did not feel it was appropriate; requested Mr. McIntyre clarify the information presented this date on the cost difference of the two proposals **(8 - 0)**; and presented questions relative to whether breaking Sunset's recycling contract was a consideration regardless of any decision this date and if the grand jury's request for information/involvement would affect any decision made, with Mr. McIntyre and Ms. Montoy responding.

Councilmember Perea questioned how much money the city would save that was equal under both proposals (with Mr. McIntyre responding); stated his position had not changed from last week and he was not ready to support either proposal; stated there were a lot of questions that needed to be answered that could be answered by an expert independent consultant and he did not see the problem with an independent analysis at no cost to the city; stated it was unfortunate this became political when the Fresno Bee made it political and it was no longer about the merits of the issue; and clarified he did not have a problem with either company, his concern was he did not want to see contract re-negotiations come back in four or five years, and advised he also felt something was not right with the city's RFP process.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, a twenty year contract hereby awarded to Orange Avenue Disposal, Inc., of Fresno to provide transfer station services for the transfer, processing and disposal of municipal solid waste, construction and demolition materials, and asphalt and concrete materials for the Department of Public Utilities, by the following vote:

Ayes	:	Calhoun, Duncan, Sterling, Boyajian
Noes	:	Castillo, Perea
Absent	:	Dages (recused)

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(3-A) DIRECT STAFF AND THE CITY ATTORNEY TO PREPARE AN ORDINANCE PROHIBITING REPRESENTATIVES OF COMPANIES AND/OR INDIVIDUALS RESPONDING TO REQUESTS FOR PROPOSALS (RFPs) AND REQUESTS FOR QUALIFICATIONS (RFQs), AND THOSE INVOLVED IN THE FORMAL BID PROCESS, FROM CONTACTING ELECTED OFFICIALS EXCEPT DURING PUBLIC MEETINGS OF THE CITY COUNCIL - COUNCILMEMBER DAGES

Councilmember Dages stated he wanted Council to make decisions based on facts and specifics and not on how Council is courted by bidders and companies, clarified this was not directed to any one person and emphasized sound decisions needed to be made based on what was best for the city without any outside contact or influence; noted this no-contact practice was currently done with the Health & Welfare contract; and further elaborated on the issue and stated Council, as the leaders of the community, needed to lead by example, and made a motion to direct staff as outlined above. Councilmember Calhoun seconded the motion, urged a unanimous vote, and spoke to the need to do the city's business openly in public. Councilmembers Sterling and Duncan commended Councilmember Dages, spoke in support of the motion, and upon question of Councilmember Duncan, City Attorney Montoy clarified this ordinance would be a two-way street in that it would also prohibit Council from contacting companies/bidders.

Ms. Montoy and Assistant City Manager Souza responded to questions/comments/concerns of Acting President Castillo relative to whether language was already included in RFPs prohibiting proposers from contacting Council or if contact could only be made with a designated person, need for staff to clarify that language to proposers or broaden the language to include Council, this being a disclosure issue and the Panagraph contract being an example of where contact was needed for a possible better deal, the ordinance not being good policy and giving a perception to the public that Council can be influenced, and need to think about what the repercussions would be if improper communication does occur. Councilmember Dages responded to Councilmember Perea's question/comment relative to how this ordinance would apply to staff, staff lobbying, and staff information sometimes going beyond recommendations, with Councilmember Dages elaborating further on the issue.

City Manager Hobbs complimented Councilmember Dages on the issue and stated he felt this might be a special time in Fresno's political history; spoke to his experience with other cities back east that have a very strong ex-parte communications ordinance; encouraged Council to look at the strongest models around and suggested the ordinance be broadened beyond RFPs to other areas of decision making that are overly impacted by special interest lobbying; and responded to Acting President Castillo's comments and clarified contact could still be made with Council but it would occur all out in the open rather than with private phone calls and meetings which could leave people wondering and create perceptions. Councilmember Dages and Ms. Montoy responded to questions of President Boyajian and Councilmember Perea relative to why the ordinance was stopping at RFPs, if expanding to other areas as recommended by the city manager would be considered in the future, concern with finger-pointing and how this ordinance would be enforced and what the penalty would be, timeline needed for staff to bring the ordinance back, Councilmember Calhoun encouraging staff to look at other areas for Council consideration, specific scenarios and how they would be dealt with (Ms. Montoy clarifying common sense will be a big part of the issue), **(9 - 0)** and need to consider the RFP process in the future to give Council longer than 3-4 days to review information it takes staff 6-8 months to put together.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED, staff and the city attorney directed to prepare an ordinance prohibiting representatives of companies and/or individuals responding to Requests for Proposals (RFPs) and Requests for Qualifications (RFQs), and those involved in the formal bid process, from contacting elected officials except during public meetings of the City Council, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	Castillo
Absent	:	None

(3-B) DIRECT STAFF TO REMOVE THE REQUIREMENT OF QUARTERLY JUVENILE ACCOUNTABILITY ORDINANCE REPORTS BY THE POLICE DEPARTMENT AND REQUIRE THE SAME REPORT TO BE PREPARED INSTEAD ON AN ANNUAL BASIS - COUNCILMEMBER CALHOUN

Briefly reviewed by Councilmember Calhoun who stated the intent was to not tie staff up with quarterly reports.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, staff directed to remove the requirement of quarterly Juvenile Accountability Ordinance reports by the Police Department and require the same report to be prepared instead on an annual basis, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(3-F) APPROVE GRIZZLIES STADIUM SINGLE EVENT LICENSE AGREEMENT WITH THE MAKE-A-WISH FOUNDATION FOR DISTRICT 5 SPONSORED 9-11 FIELD OF WISHES EVENT, ALLOCATING ALL NET REVENUES THEREFROM TO THE MAKE-A-WISH FOUNDATION - COUNCILMEMBER DAGES

Councilmember Dages stated he wanted his district-sponsored event to receive the concession proceeds (approximately \$3,500) that would normally go to the City, spoke in support of Make A Wish and all they do, and made a motion to allocate all the revenues to Make

A Wish.

142-83

8/26/03

Councilmember Calhoun stated this was a difficult issue to address as one group was being singled out; noted a contract was in place with the Grizzlies to pay for the stadium without charging the taxpayers any additional money; stated he understood the intent but felt Council had to look at this in a fiscal sense; stated groups/organizations needed to recognize there was an opportunity for them to make some money but also understand any profits made had to go back to the taxpayers; and advised as much as he hated to he would have to vote against this and added if Council felt this policy was wrong staff needed to review the policy and report back.

Assistant City Manager Souza concurred this would set a precedent, clarified the revenues have been used to offset the cost of the stadium, advised staff would be reappraising the entire issue of how the seven days work, the use of concessions, and other issues, and reiterated these were general fund revenues.

Councilmember Duncan complimented Councilmember Dages for being involved with Make A Wish in this event stating it was a very worthwhile event; stated he agreed with Councilmember Calhoun and added opening the door to one group makes it very difficult to say no to everyone else without a standard policy; and recommended Councilmember Dages use his 15% allocation from the infrastructure budget to help Make A Wish. Councilmember Perea stated he agreed with Councilmembers Calhoun and Duncan, clarified while he was inclined to vote in support of the motion he could see the other side which was dealing with other organizations that want to do the same thing; and stated no matter how the vote goes this date he felt a blanket policy was needed so Council is not put in a position of saying yes or no to someone. President Boyajian added the question was how does one differentiate between organizations, diseases, childrens' groups, etc., stressed all these organizations were important and no one wanted to pit one over another; and stated the procedure was flawed and a plan was needed.

A motion of Councilmember Dages, seconded by Councilmember Sterling, to approve a Grizzlies Stadium Single Event License agreement with the Make-A-Wish Foundation for District 5 sponsored 9-11 Field of Wishes Event, allocating all net revenues therefrom to the Make-A-Wish Foundation failed, by the following vote:

Ayes	:	Castillo, Dages, Sterling
Noes	:	Calhoun, Duncan, Perea, Boyajian
Absent	:	None

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(6-A-1) SCHEDULED PUBLIC COMMENT - APPEARANCE BY DON GLASSON TO DISCUSS THE BACK ZONING OF HIS PROPERTY FROM R-A TO R-1

Mr. Glasson expressed concern with his dealings with, and treatment by, the planning and development department advising he was told by staff this should have been done twenty years ago and he would never get his permits and elaborated. Councilmember Calhoun stated he was aware of the issue, noted the subject property was extremely small and very difficult to build on, clarified Mr. Glasson was told by staff his plans would go through the normal process and added Mr. Glasson had changes and adjustments that were questionable as to whether or not they could be done; and emphasized the department was continuing through the regular process and added what eventually comes out will be another question. President Boyajian told Mr. Glasson his plans had to go through the process and there were no guarantees on approval, and City Manager Hobbs gave Mr. Glasson his card and advised staff would look into the issue and report. There was no further discussion.

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E-MAIL ISSUE - PRESIDENT BOYAJIAN

President Boyajian advised he made a comment last week that he would look into the e-mail situation and stated that was a very ambitious goal and he was unable to get his committee of Acting President Castillo and himself together; advised although he did have a short meeting with the city attorney he did not feel a judgment could be made without Acting President Castillo's input; and stated with the upcoming vacation break a meeting(s) would be held and a determination would be made on September 16th and apologized to those in attendance. Councilmember Calhoun stated he was unclear and questioned if Acting President Castillo was appointed to the committee from the dais, what the purpose of the council sub-committee was and its intention, and if the council president had the authority to convene a meeting with the city attorney that Council was unaware of, with President Boyajian and City Attorney Montoy responding.

Citing a Fresno Bee article, Councilmember Calhoun noted Acting President Castillo took it upon himself to “cart down” e-mails to Channel 30, stated that seemed to be the kind of action that would not put him in the best position to be making decisions on e-mails, and requested President Boyajian reassess and think through what was happening adding he seriously questioned whether this was the best way to handle this and whether Acting President Castillo was the proper individual to be involved. President Boyajian clarified he met with the city attorney on the appropriateness of what Council could or could not do, stated the word “committee” probably should have not been used, clarified he chose Acting President Castillo because he was the acting president, and stated everyone was not perfect, Council integrity was important, and because the community response was so significant he wanted to assure the public that Council was accountable.

(6-A-2) SCHEDULED PUBLIC COMMENT - APPEARANCE BY DEBBIE REYES, CHAIR, HUMAN RELATIONS COMMISSION, TO DISCUSS RELOCATING THE COMMISSION TO THE CITY CLERK'S OFFICE

An unidentified woman representing Ms. Reyes stated the Human Relations Commission was in support of moving the HRC to the City Clerk's office stating the HRC felt this would be the beginning of a new chapter in the life of the HRC which had weathered many storms lately. There was no further discussion.

UNSCHEDULED COMMUNICATION:

Malcolm Chaddock, 858 E. Carren, Apt. A; Nicholas DeGraff, 5339 N. Orchard; Eugenie Baranoff, 8642 N. Cedar #101; Cary Catalano, 1576 N. Arthur; and Gail Gaston, no address given, spoke to the issues of Council/Council Assistant e-mails, need to respect everyone, zero tolerance on e-mails, conflict of interest with the police department investigating complaints, seriousness of negative comments made by Council members and need for Council to address the issue, diversity of people, **(10 - 0)** concern with lack of questions answered or phone calls returned, if the City was looking at implementing a zero tolerance policy, and request for information on conflict of interest policy. City Attorney Montoy stated she would send the police department conflict of interest policy to the HRC and advised the City did not have a zero tolerance policy. There was no further discussion.

CLOSED SESSION ANNOUNCEMENT

City Attorney Montoy announced in the matter of Item C-1, Claims of Sandy Moua, Theresa Moua, et al., the Council voted 7-0 to reject the claims; and in the matter of Item C-2, Claim of Chau Vue and Maycha Vang (a minor, by and through her guardian Me Vang), the Council voted 7-0 to reject the claim.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 7:17p.m. having arrived and hearing no objections, President Boyajian declared the meeting adjourned.

APPROVED on the ____16th____ day of ____September____, 2003.

_____/s/_____
Tom Boyajian, Council President

ATTEST:_____/s/_____
Yolanda Salazar, Assistant City Clerk

142-85

8/26/03